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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,572	07/03/2001	John G. Apostolopoulos	10012166.1	2887

7590

03/08/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

BEAMER, TEMICA M

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/898,572	Applicant(s) APOSTOLOPOULOS ET AL.	
	Examiner Ternica M. Beamer	Art Unit 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) 11-22 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Agrawal et al (Agrawal), U.S. Patent Pub. No. 2002/0193114.

3. Regarding claims 1 and 6, Agrawal discloses a) detecting that a channel quality between a mobile client and a first base station remains above a drop threshold and that a channel quality between said mobile client and a second base station increases from below to above and add threshold; and b) sending a first multiple description bitstream from said first base station to said mobile client and sending a second multiple description bitstream from said second base station to said mobile client (0060, 0061, 0074, 0081).

Regarding claims 2 and 7, Agrawal discloses the steps of: prior to said step a) said sending said first multiple description bitstream and said second multiple description bitstream from said first base station to said mobile client such that said

Art Unit: 2681

mobile client receives said first multiple description bitstream and said second multiple description bitstream from said first base station (0061).

Regarding claims 3 and 8, Agrawal discloses wherein said step a) further comprises the step of: i) ceasing sending said second multiple description bitstream from said first base station to said mobile client (0088).

Regarding claims 4 and 9, Agrawal discloses the steps of: c) detecting that said channel quality from said first base station to said mobile client drops below a drop threshold value; and d) dropping said channel between said first base station and said mobile client such that said mobile client does not receive said first multiple description bitstream from said first base station (0088).

Regarding claims 5 and 10, Agrawal discloses the step of: e) upon dropping said channel between said first base station and said mobile client. sending said first multiple description bitstream from said second base station to said mobile client such that said mobile client receives said first multiple description bitstream and said second multiple description bitstream from said second base station (0087, 0088).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Frodigh et al, U.S. Patent No. 6,381,458, discloses soft handoff control based in access network capacity.

Art Unit: 2681


Tiedemann, Jr. et al, U.S. Publication No. 2001/0034233, discloses common channel soft handoff.

Chen et al, U.S. Patent Publication No. 2002/0191561, discloses packet distribution and selection in soft handoff for IP-based base stations among multiple subnets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (703) 306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Temica M. Beamer
Primary Examiner
Art Unit 2681

3/3/2005